THE HONOURABLE SRI JUSTICE B.SUDERSHAN REDDY

AND

THE HONOURABLE SRI JUSTICE S.ANANDA REDDY

W.P.NO.25696 OF 2005

Dated 02.12.2005

M/s. Medinova Diagnostic Services Ltd

Petitioner.

And

The Commissioner of Customs & Central Excise,

Hyderabad-II, Commissionerate, LB stadium road,

Basheerbagh, Hyderabad. 500 004. and another

Respondents

THE HONOURABLE SRI JUSTICE B.SUDERSHAN REDDY

AND

THE HONOURABLE SRI JUSTICE S.ANANDA REDDY

W.P.NO.25696 OF 2005

ORAL ORDER: (per Sri BRSR,J)

Heard the learned counsel for the petitioner and the learned Assistant Solicitor General and at their request, the matter is taken up for final disposal at the admission stage. Rule nisi.

Obviously, the final order passed by the respondents against the petitioner withdrawing the concessions has attained finality since the same remained unchallenged. In fact, we have upheld all such similar orders passed by the respondents. In the circumstances, we find no reason to interdict the consequential demand notice, which does not suffer from any infirmity. Learned counsel for the petitioner

Sri T.P.Acharya, however, states that the petitioner is willing to pay the amounts in instalments as it is not in a position to pay the amount in lump sum. This Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot undertake the exercise of assessing the petitioner's capacity and provide any facility to pay the demanded amount in instalments. Such a course is impermissible. However, it would be appropriate to direct the respondents to consider the request of the petitioner provided any such application is filed stating the reasons. The respondents shall consider such request and take an appropriate decision within four weeks from the date of making such application.

With the observations as above, the writ petition shall stand disposed of. No costs.

(B.SUDERSHAN REDDY,J)

dated 02.12.2005

(S.ANANDA REDDY,J)

Note:

Issue CC by tomorrow

(B/o)

msv